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US DISTRICT COURT  
DISTRICT OF ALASKA

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Counsel for Defendant

**UNITED STATES DISTRICT COURT**

**DISTRICT OF ALASKA**

C.S., by and through his  
parents, J.S. and R.S.,

Plaintiffs

vs.

ANCHORAGE SCHOOL DISTRICT,

Defendant

Case No. A05-0275 CV (JWS)

**ANSWER TO COMPLAINT**

Comes now defendant, Anchorage School District, by and through its attorneys  
Jermain, Dunnagan & Owens, P.C., who answers the allegations and claims in plaintiffs'  
Complaint by responding and defending as follows:

**ALLEGATIONS**

1. Defendant admits that plaintiffs have exhausted the administrative remedies  
under the Individuals with Disabilities Education Act, 20 U.S.C. §§1400, et seq.,  
hereinafter the "IDEA."

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2. Defendant admits that this court has jurisdiction over the claims in this action pursuant to 20 U.S.C. §1415(i)(3).

3. Defendant admits that venue is proper in this action under 28 U.S.C. §1391(b) and D. Ak. LR 3.3.

4. Defendant admits the allegations in paragraphs 4, 5, 6, 11, 13, and 14 of the Complaint.

5. Defendant admits that J.S. and R.S. filed a due process hearing request that became DEED Case No. 05-13 and concerned implementation of DEED Complaint Investigation Report ("CIR") in Complaint No. 04-03.

6. Defendant admits that J.S. and R.S. contacted ASD to inquire about implementation of the corrective action items ordered in the CIR.

7. Defendant admits that DLC represented J.S. and C.S. in DEED Case No. 05-13.

8. Defendant admits that a due process hearing was held on May 17, 18 and 26, 2005, before Linda Cerro, a Hearing Officer appointed by DEED, who subsequently issued a Decision and Order dated June 28, 2005, which awarded some of the relief requested by the plaintiffs but denied other relief.

9. Defendant admits that plaintiffs prevailed on some, but not all, of the claims presented to and decided by the Hearing Officer.

10. Defendant admits that DLC requested payment of full attorney's fees shortly before filing this action but denies that DLC made a reasonable effort to resolve that claim before filing this action.

11. All other facts alleged by plaintiffs in the Complaint that are not expressly admitted by defendant in this Answer are denied.

#### AFFIRMATIVE DEFENSES

1. Plaintiffs were only partially successful on the issues raised in their due process hearing complaint.

2. DLC is established under federal law and is federally funded to provide the legal services it provided for plaintiffs in this matter without cost to plaintiffs and plaintiffs have not been charged nor are they expected to pay any attorney's fees to DLC for such legal services.

3. The hours in plaintiffs' request include hours that are unnecessary or duplicative.

4. The time spent and legal services furnished were excessive considering the nature of the matter and issues raised.

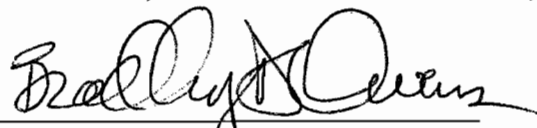
5. The hourly rate claimed by counsel for the plaintiffs is substantially higher than the hourly rate recently claimed in a similar matter, which defendant paid.

Defendant reserves the right to assert other affirmative defenses that may be disclosed through the process of disclosure and discovery under the FRCP.

Wherefore, defendant respectfully requests this court to enter a judgment in this matter denying the relief requested by plaintiffs and limiting or reducing the amount of attorney's fees requested consistent with the provisions of IDEA and court decisions interpreting and applying that law.

Dated in Anchorage Alaska this 16<sup>th</sup> day of December 2005.

JERMAIN, DUNNAGAN & OWENS, P.C.



By: Bradley D. Owens  
Alaska Bar #7610122

CERTIFICATE OF SERVICE

I hereby certify that the above document was served on the 16<sup>th</sup> day of December 2005, via ~~first class mail, prepaid~~, on:  
HAND-DELIVERY

Sonja D. Kerr  
Disability Law Center of Alaska  
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